

# HOUSE BILL REPORT

## HB 1061

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**As Reported by House Committee On:**  
Technology, Energy & Communications

**Title:** An act relating to siting of energy facilities.

**Brief Description:** Changing provisions concerning the siting of energy facilities.

**Sponsors:** Representatives Hudgins, Linville and Morris.

**Brief History:**

**Committee Activity:**

Technology, Energy & Communications: 1/10/07, 2/2/07 [DPS].

**Brief Summary of Substitute Bill**

- Allows a person to combine in a single application for site certification multiple substantially similar thermal power plants or alternative energy resources.
- Allows a person constructing, reconstructing, or enlarging a new or existing energy plant with a generation capacity up to 350,000 kilowatts to choose to receive site certification through the Energy Facility Siting Evaluation Council (EFSEC).
- Allows local governments to defer jurisdiction over the construction, reconstruction, or enlargement of a new or existing energy plant with a generating capacity from 35,000 kilowatts up to 350,000 kilowatts to EFSEC.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Ericksen, Hankins, Hudgins, Hurst, Takko and VanDeWege.

**Staff:** Scott Richards (786-7156).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. The EFSEC's membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. The EFSEC's membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of large intrastate natural gas and petroleum pipelines, electric power plants above 350 megawatts, new oil refineries, large expansions of existing facilities, and underground natural gas storage fields. For electric power plants, the EFSEC's jurisdiction extends to those associated facilities that include new transmission lines that operate in excess of 115 kilovolts and are necessary to connect the plant to the Northwest power grid. The EFSEC's jurisdiction includes the siting of electrical transmission facilities in excess of 115 kilovolts in National Interest Electric Transmission Corridors as designated by the U.S. Department of Energy or the Federal Energy Regulatory Commission under Section 1221 of the National Energy Policy Act. The EFSEC may site energy facilities of any size that exclusively use alternative energy resources, if the project applicant chooses to use the EFSEC review and certification process.

### **EFSEC Site Evaluation Process**

The EFSEC siting process generally involves six steps: (1) a potential site study followed by an application; (2) a State Environmental Policy Act review; (3) a review for consistency with applicable local land use laws and plans; (4) a formal adjudication on all issues related to the project; (5) certain air and water pollution discharge permitting reviews as delegated by the U.S. Environmental Protection Agency; and (6) a recommendation to the Governor who then decides whether to accept, reject, or remand the application. A certification agreement approved by the Governor preempts any other state or local regulation concerning the location, construction, and operational conditions of an energy facility.

Under the EFSEC process, the applicant is required to pay the costs of the council in processing an application.

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### **Summary of Substitute Bill:**

#### **EFSEC Opt-in Provisions**

A person constructing new thermal energy plants or alternative energy resources may choose to aggregate these plants or resources into one application for site certification through the Energy Facility Site Evaluation Council (EFSEC).

"Aggregate site certification" means combining into a single application for site certification multiple substantially similar thermal power plants or alternative energy resources proposed for development by an applicant. "Substantially similar" means two or more thermal power plants or alternative energy resources that use the same fuel and generation technology.

A person constructing, reconstructing, or enlarging a new or existing energy plant with a generation capacity up to 350,000 kilowatts may choose to receive site certification through EFSEC.

Local governments may defer jurisdiction over the construction, reconstruction, or enlargement of a new or existing energy plant with a generating capacity from 35,000 kilowatts up to 350,000 kilowatts to EFSEC.

### **Expedited Processing of Applications**

Any person filing an application for certification through EFSEC may apply for an expedited processing of such an application.

### **Substitute Bill Compared to Original Bill:**

The substitute deletes proposed changes to the definition of "energy plant." The definition of "energy generation area" is deleted and replaced with a definition for "aggregate site certification." The opt-in provision for energy generation areas to use the Energy Facility Site Evaluation Council (EFSEC) certification process is removed and replaced with an opt-in provision allowing a person constructing new thermal energy plants or alternative energy resources to choose to aggregate these plants or resources into one application for site certification through EFSEC.

The substitute adds a definition for "substantially similar."

The substitute provides additional EFSEC opt-in provisions. A person constructing, reconstructing, or enlarging a new or existing energy plant with a generation capacity up to 350,000 kilowatts may choose to receive site certification through EFSEC. Also, a local government may defer jurisdiction over the construction, reconstruction, or enlargement of a new or existing energy plant with a generating capacity from 35,000 kilowatts up to 350,000 kilowatts to EFSEC.

The substitute specifies that any person filing an application for certification through EFSEC may apply for expedited processing of such an application.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

### **Staff Summary of Public Testimony:**

(In support) Some folks have expressed some concerns about the bill. I'm interested to see what the specifics are and incorporate feedback.

(With concerns) Reduction in the threshold for thermal power plants would mandate all thermal power plants going through the Energy Facility Site Evaluation Council (EFSEC) site certification process. For small peaking power plants, developers are comfortable working with a local government in getting necessary permits to expand the facility. Many developers would like to have the option of going to EFSEC for small-scale power plants but not be required to do so in all circumstances. There are a number of projects that are small-scale upgrades that do not have statewide significance. It makes sense to permit these upgrades at a local level. This bill opens a dialogue on what is an appropriate level for EFSEC jurisdiction over thermal power plants. The EFSEC was created to site more controversial power plants like nuclear power plants. The committee may want to consider allowing project developers and local governments the choice to opt-in to the EFSEC site certification process.

There are concerns about the definitions used for "energy generation area" and "energy plant." They could be better defined.

(Opposed) None.

**Persons Testifying:** (In support) Representative Hudgins, prime sponsor; and Jim Luce, Energy Facility Siting Council.

(With concerns) Ken Johnson, Puget Sound Energy; Kathleen Collins, PacifiCorp; Collins Sprague, Avista Corp.; Jim Potts, Renewable Energy Project; and Miguel Perez-Gibson, Northwest Energy Coalition.

**Persons Signed In To Testify But Not Testifying:** None.